

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Gary Reed and Tom Vevea, as Trustees of the Minnesota Laborers Health and Welfare Fund and Minnesota Laborers Pension Fund; James Brady and Gary Reed, as Trustees of the Minnesota Laborers Vacation Fund; Gary Reed and John Bartz, as Trustees of the Construction Laborers' Education, Training, and Apprenticeship Fund of Minnesota and North Dakota; and Dan Olson and Chris Born, as Trustees of the Minnesota Laborers Employees Cooperation and Education Trust; and each of their successors,

Civil No. 11-85 (DWF/AJB)

Plaintiffs,

v.

ORDER

Hi-Tech Floors, Inc.; and HTP Floors Inc.,

Defendants.

Amy L. Court, Esq., Carl S. Wosmek, Esq., and Christy E. Lawrie, Esq., McGrann Shea Carnival Straughn & Lamb, Chartered, counsel for Plaintiffs.

Brian N. Toder, Esq., Gary K. Luloff, Esq., and Mark J. Schneider, Esq., Chestnut Cambronne, PA, counsel for Defendant HTP Floors Inc.

This matter is before the Court on Plaintiffs' Motion for Entry of Judgment and for Summary Judgment (Doc. No. 52). Consistent with the Court's ruling from the bench at the hearing on this matter, the Court denies Plaintiffs' motion.

I. Motion for Summary Judgment

Viewing the record in the light most favorable to the defense, the Court concludes that Plaintiffs have failed to meet their burden to demonstrate the absence of any genuine issue of material fact sufficient to entitle them to summary judgment against Defendant HTP Floors, Inc. The Court finds that factual disputes exist with respect to Plaintiffs' claims in this matter, which must be resolved by the jury at trial. As such, Plaintiffs' motion for summary judgment is denied.

II. Motion for Entry of Judgment

The Court acknowledges that default has been entered by the Clerk of Court against Defendant Hi-Tech Floors, Inc., and that Hi-Tech Floors, Inc., has failed to enter an appearance by counsel or otherwise defend against this lawsuit. (Doc. No. 33.) The Court, however, declines to enter judgment at this time. Plaintiffs may bring a renewed motion, if appropriate, after the parties have engaged in a full and frank settlement conference before the Magistrate Judge.

ORDER

Based upon the foregoing, and the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that Plaintiffs' Motion for Entry of Judgment and for Summary Judgment (Doc. No. [52]) is **DENIED** as follows:

1. To the extent Plaintiffs seek summary judgment against Defendant HTP Floors, Inc., the motion is **DENIED**.

2. To the extent Plaintiffs seek entry of judgment against Defendant Hi-Tech Floors, Inc., the motion is **DENIED WITHOUT PREJUDICE**.

Dated: June 17, 2013

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge